

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

*MYRON COWHER*

Plaintiff

CIVIL ACTION NO: 3:16-CV-2259-MEM-KM

v.

*Correct Care Solutions, LLC;*

*Et al*

Defendants

**PLAINTIFF COWHER'S RESPONSE TO CORRECT CARE  
DEFENDANT'S STATEMENT OF UNDISPUTED FACTS AND  
COWHER'S STATEMENT OF ADDITIONAL UNDISPUTED FACTS**

**I. Response to Correct Care Facts:**

1-8. Admitted.

9. Admitted. By way of further response, on May 6, 2016, Cowher was scheduled to see Dr. Rajjoub on May 31, 2016. *See*, Correct Care Exhibit 'A' at 65.

10. Admitted. By way of further response, a provider note at the comments section says "Urgent." (emphasis in original).

11-20. Admitted.

21-22. Admitted.

23-30. Admitted.

31-32. Admitted. By way of further response, it is undisputed that Correct Care refused to facilitate the surgery that Cowher was scheduled for on January 4, 2017. It is also undisputed that nobody told Cowher that he was actually scheduled for surgery on that date.

33-99. Admitted.

## **II. Cowher's Statement of Undisputed Facts:**

1. Dr. Courtney Rogers saw Cowher on at least two occasions. *See*, Cowher Ex. 'A' at Exhibits Rogers 2 and 3.
2. Dr. Rogers testified that even if an inmate arrives with a pre-existing scheduled surgery, and provides medical record such as MRI reports, Correct Care Solutions must still essentially recreate the inmate's entire medical chart by securing all records from all outside providers. *See*, Ex. 'A' at 7-8, 15.
3. Dr. Rogers saw Cowher on at least two occasions (2/8/17 and 3/1/17) and on both occasions placed an order for Cowher's medical records from outside providers to be obtained. *See*, Exhibit 'A' at Exhibits Rogers 2 and 3.

4. During his first consultation with Cowher, Dr. Rogers reviewed “paperwork” that showed that Cowher had significant cervical issues. *See*, Cowher Ex. ‘A’ at Exhibits Rogers 2.
5. It is not Correct Care’s responsibility to order medical records, but rather that task must be handled by the medical records department of the Department of Corrections upon a request from Correct Care personnel. *See*, Cowher Ex. ‘A’ at 24-26.
6. Correct Care personnel have no control over whether the DOC medical records department actually obtains or even requests medical records that are sought by Correct Care personnel. *Id.*
7. Dr. Rogers does not remember if he made any specific follow up communication to the DOC medical records department about getting Cowher’s records, despite twice having written orders for them to be obtained.
8. Cowher never received surgery while in state custody because Correct Care never received all of his medical records from outside providers. *See*, Ex. ‘A’ at 24.

Respectfully submitted,

**MOSSER LEGAL, PLLC**

**BY:**

\_\_\_\_\_/s/ TMM\_\_\_\_\_

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**4/4/19**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served on all parties via the ECF system.

Respectfully submitted,

**MOSSER LEGAL, PLLC**

**BY:**

\_\_\_\_\_/s/ TMM\_\_\_\_\_

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**4/4/19**

**EXHIBIT 'A'**



Compressed Transcript of the Testimony of  
**COURTNEY PATRICK RODGERS, D.O., 1/25/19**

**Case:** Cowher v. Lowe, et al.

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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MYRON COWHER, : CIVIL ACTION-LAW  
Plaintiff, :

vs.

CRAIG A. LOWE, et al., :  
Defendants. : NO. 3:16-CV-02259  
---

Oral deposition of COURTNEY PATRICK RODGERS,  
D.O., taken at SCI Mahanoy, 301 Morea Road,  
Frackville, Pennsylvania 17932, on Friday,  
January 25, 2019, beginning at 10:24 a.m. before Nancy  
J. Taguinot, RPR, CCR(NJ), Registered Professional  
Reporter and Notary Public in and for the Commonwealth  
of Pennsylvania.

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2  
3 WITNESS: COURTNEY PATRICK RODGERS, D.O.  
4 QUESTIONED BY: PAGE  
5 Mr. Mosser 4, 29  
Ms. Goodrich 24  
6

## EXHIBITS

\*\*\*

9 NUMBER DESCRIPTION MARKED  
10 Rodgers-1 Curriculum Vitae 5  
11 Rodgers-2 Page from medical records, 6  
2/9/17  
12  
Rodgers-3 Physician's Order Form, 12  
13 01/31/19  
14 Rodgers-4 Record from Upstate Radiology, 17  
PC, Open MRI of Williamsport  
15  
16  
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21  
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23  
24

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13 Warden; Robert E. McLaughlin, Assistant  
Warden; Primecare Medical, Inc.; Kendle  
14 Jeminola, RN, HSA; Denise Jeminola, RN, CCHP;  
Derek Hughes, MBA, CCHP; Thomas J. Weber,  
15 Esq., CEO; Todd W. Haskins, RN, BSN;  
Pennsylvania Department of Corrections;  
16 Theresa DeBaso, Superintendent, SCI Mahanoy;  
and Laurel Hardy, SCI Camp Hill  
17  
18 WEBER, GALLAGHER, SIMPSON, STAPLETON,  
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22 -- Representing the Defendant Correct Care  
Solutions, LLC and the witness  
23  
24

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\*\*\*

(It is hereby stipulated and agreed by and  
among counsel for the respective parties that  
sealing, certification, and filing are waived and  
that all objections, except as to the form of the  
question, are reserved until the time of trial.)

\*\*\*

COURTNEY PATRICK RODGERS, D.O.,  
having been first duly sworn, was  
examined and testified as follows:

\*\*\*

## EXAMINATION

\*\*\*

BY MR. MOSSER:

15 Q. Good morning, Dr. Rodgers.  
16 A. Good morning.  
17 Q. My name is Todd Mosser. I represent Myron  
18 Cowher. Have you ever had your deposition taken  
19 before?  
20 A. I have not.  
21 Q. Okay. A couple of quick ground rules. If  
22 I ask you a question you don't understand, let me know  
23 and I'll try to rephrase it. All of your answers have  
24 to be verbal because this is on the record. So nods

1 (Pages 1 to 4)

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1 of the head --  
 2 A. Right.  
 3 Q. And the other thing is yeahs and uh-huhs  
 4 don't work either. Okay?  
 5 A. Right.  
 6 Q. Do you understand?  
 7 A. I do.  
 8 Q. Good. So the first thing is I have what  
 9 is a CV here. The top of it says Courtney Patrick  
 10 Rodgers. Is that your CV?  
 11 A. Yes, it is.  
 12 Q. Okay. So we'll have this attached as  
 13 Exhibit 1.  
 14 \* \* \*  
 15 (Whereupon, Exhibit Rodgers-1 was marked  
 16 for identification.)  
 17 \* \* \*  
 18 BY MR. MOSSER:  
 19 Q. What's your current position at Correct  
 20 Care Solutions?  
 21 A. I'm a site medical director at SCI  
 22 Mahanoy.  
 23 Q. Okay. Was that your position in January  
 24 of '17?

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1 A. Yes, it was.  
 2 Q. Do you remember Myron Cowher?  
 3 A. I do not recall him specifically. I do  
 4 recognize the picture and I do recognize the name.  
 5 Q. Okay. I just want to go over a couple of  
 6 what looks to be progress notes with you. The first  
 7 thing I want to show you we'll mark as Exhibit 2.  
 8 \* \* \*  
 9 (Whereupon, Exhibit Rodgers-2 was marked  
 10 for identification.)  
 11 \* \* \*  
 12 MR. MOSSER: You guys have it as the first  
 13 page.  
 14 BY MR. MOSSER:  
 15 Q. You see in the middle of the page there  
 16 there's a stamp that says Courtney Rodgers, D.O.?  
 17 A. Yes, I do.  
 18 Q. Is that your stamp?  
 19 A. Yes, it is.  
 20 Q. Okay. Did you write the note that's above  
 21 that?  
 22 A. Yes, I did.  
 23 Q. Okay. And to the left it's dated February  
 24 8th, 2017. Do you see that?

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1 A. Yes, I do.  
 2 Q. Okay. Now the top line says, "Reviewed  
 3 prior paperwork and PT. Significant cervical issues  
 4 included herniated discs."  
 5 Do you remember how you knew that from Mr.  
 6 Cowher?  
 7 A. Can you expand on that question?  
 8 Q. Sure. How did you know he had herniated  
 9 cervical discs?  
 10 A. Based on this, it looks like he had  
 11 brought paperwork with him that I looked at.  
 12 Q. Okay. Do you remember what paperwork that  
 13 was?  
 14 A. No, I do not.  
 15 Q. Okay. Do you remember whether he brought  
 16 you any MRI paperwork?  
 17 A. I do not.  
 18 Q. Okay. What kind of paperwork would cause  
 19 you to think he had herniated discs?  
 20 A. Likely, it would have been MRI reports.  
 21 Q. Okay. Now, having had an MRI report, the  
 22 next thing it says, "Patient states intermittent  
 23 pain." On the one, two, three, four, fifth line down  
 24 it says, "Discussed. Will obtain these records and

Page 8

1 follow accordingly."  
 2 What other records did you need to have?  
 3 A. That would have been any prior workup from  
 4 outside providers, including neurosurgery. It said  
 5 that he had been seen by neurosurgery in county. So  
 6 it would have been all of their records.  
 7 Q. Okay.  
 8 A. For their workup and evaluation.  
 9 Q. Now, are those records something that's  
 10 typically in the possession of Correct Care by the  
 11 time a patient comes to see you?  
 12 A. Ideally.  
 13 Q. Okay. When you say ideally, what does  
 14 that mean?  
 15 A. It doesn't always happen that way.  
 16 Sometimes, once they get to our site, we have to put  
 17 in for those records. We're a home-based site. We're  
 18 a home institution, so when they come in initially  
 19 they come in to intake centers and then they go to  
 20 Camp Hill for assignment.  
 21 Q. Right.  
 22 A. And once they're finally assigned to a  
 23 home institution, that's when typically people will be  
 24 helped.

2 (Pages 5 to 8)

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1 Q. Okay. So am I hearing you correctly to  
2 say sometimes those records get lost?  
3 MS. GOODRICH: Objection to form. I don't  
4 think that's what he said.  
5 MR. MOSSER: Okay.  
6 MS. GOODRICH: Would you agree with me  
7 that what you're testifying is records begin to  
8 get obtained once you get to home base?  
9 THE WITNESS: Correct.  
10 BY MR. MOSSER:  
11 Q. Okay. So where are those records obtained  
12 from?  
13 A. Outside providers. I put in requests in  
14 order for medical records to be obtained specific,  
15 with contact information and medical records  
16 through the DOC should obtain those records.  
17 Q. Okay. So -- but in this instance, you had  
18 some medical records, correct?  
19 A. From --  
20 MS. GOODRICH: Objection to form. Are you  
21 saying that CCS had records, Myron Cowher had  
22 records?  
23 BY MR. MOSSER:  
24 Q. My question is, Dr. Rodgers wrote that he

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1 approve or provide an alternate path.  
2 Q. Okay. And is there a reason why, in this  
3 instance, you did not -- well, let me ask you this.  
4 In this instance, did you suggest a consult for an  
5 MRI?  
6 A. I do not believe I did.  
7 Q. Do you remember why?  
8 A. I would typically require all the prior  
9 workup from neurosurgery, from any outside provider,  
10 to warrant a medically necessary MRI.  
11 Q. After that MRI -- if, for instance, you  
12 had recommended an MRI, would you have gotten the MRI  
13 results?  
14 A. Yes. They do get faxed to us.  
15 Q. Okay.  
16 A. Sometimes not in a timely manner, but we  
17 do get them faxed to us.  
18 Q. And do you make the decision on what to do  
19 after you get those MRI results?  
20 A. I would with -- at the time, with  
21 Dr. Wiener, we would discuss it and determine the plan  
22 of action.  
23 Q. Okay. So let's go to the next page, which  
24 is C 2.

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1 reviewed records, correct?  
2 A. From this note, it looks like there was  
3 some type of prior paperwork that I reviewed.  
4 Q. And do you recall where that paperwork  
5 came from?  
6 A. I do not.  
7 Q. Okay. Why -- having observed what you  
8 observed here -- let me ask you this.  
9 Does Correct Care Solutions have the  
10 capacity to take an MRI?  
11 A. We have the capacity of obtaining a  
12 consult for MRI.  
13 Q. So there's no MRI machine here?  
14 A. No.  
15 Q. Is there an x-ray machine here?  
16 A. No.  
17 Q. Okay. So how does an inmate get an MRI?  
18 A. It goes through the process of consult  
19 approval. He will typically be seen by myself with  
20 evaluation. If there's any significant findings, both  
21 objectives and subjective, and I feel like an MRI is  
22 warranted, I can submit it for a consult to my -- at  
23 this time to my regional medical director, which would  
24 be Dr. Wiener, it would be discussed, and he would

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1 \* \* \*  
2 (Whereupon, a discussion was held off the  
3 record.)  
4 \* \* \*  
5 (Whereupon, Exhibit Rodgers-3 was marked  
6 for identification.)  
7 \* \* \*  
8 BY MR. MOSSER:  
9 Q. All right. So I have shown you what's  
10 Exhibit 3. You see at the top of the page there's a  
11 stamp there that says Courtney Rodgers, D.O.?  
12 A. Yes.  
13 MS. GOODRICH: Are we talking about the  
14 top or the second one?  
15 MR. MOSSER: The top one.  
16 THE WITNESS: Let me just clarify. The  
17 top one is actually for that top order. I have  
18 to cosign for all of the midlevels. So that top  
19 signature and stamp is actually for the top  
20 order.  
21 MS. GOODRICH: And he's referring to the  
22 January 31st, 2017.  
23 MR. MOSSER: Yes, I am.  
24 THE WITNESS: Right.

3 (Pages 9 to 12)

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1 BY MR. MOSSER:  
 2 Q. On the right-hand side on the first line  
 3 it says "MRI of spine." Do you see where it says  
 4 that?  
 5 A. Yes.  
 6 Q. Okay. What does that mean? Why was that  
 7 written there, MRI of spine?  
 8 A. You would have to ask Nancy Palmigiano. I  
 9 do not know why she wrote MRI of spine.  
 10 Q. Is her name on this piece of paper  
 11 anywhere?  
 12 A. It is. It's right there in the middle.  
 13 Q. There we go. Okay.  
 14 A. She was a P.A. at the time.  
 15 Q. Okay. And why are there two other names  
 16 on this besides yours, Nancy Palmigiano and Alice  
 17 Dudeck?  
 18 A. So that top order was written by Nancy.  
 19 Q. Uh-huh.  
 20 A. And she stamped it and signed it. And  
 21 then I have to cosign for the midlevels. So that's  
 22 why my signature and stamp is there as well.  
 23 Q. What do you mean when you say midlevel?  
 24 A. Physician assistant or C.R.N.P., certified

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1 registered nurse practitioner.  
 2 Q. Okay.  
 3 A. And then Alice Dudeck, L.P.N., is the  
 4 nurse that took the order off.  
 5 Q. Okay. Took the order off?  
 6 A. Of the paper chart.  
 7 MS. GOODRICH: Why don't you explain what  
 8 "taking the order off" means.  
 9 THE WITNESS: Acknowledged the order and  
 10 completed the task.  
 11 BY MR. MOSSER:  
 12 Q. Okay. And then February 8th, 2017 it  
 13 says, "Please obtain visit notes and recommendations  
 14 from previously seen neurosurgeon."  
 15 That's something that you wrote?  
 16 A. That is my handwriting. That is my order,  
 17 yes.  
 18 Q. So it's fair to say that as of February  
 19 8th, 2017, you still had no records that you were  
 20 looking for?  
 21 MS. GOODRICH: Objection to form.  
 22 BY MR. MOSSER:  
 23 Q. The records that -- well, what records --  
 24 what visit notes and recommendations from previously

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1 seen neurosurgeons were you looking for?  
 2 A. All of them.  
 3 Q. And at this point, it's fair to say, you  
 4 do not have them?  
 5 A. It's fair to say that I did not have any  
 6 of the notes or visit recommendations from  
 7 neurosurgery at that time, yes.  
 8 Q. Okay. Okay. Then on the bottom it says,  
 9 3/1/17, same thing, please obtain above records as  
 10 requested.  
 11 A. Correct.  
 12 Q. Now, if an inmate had given you records,  
 13 would you have looked at those in assessing what  
 14 needed to be done for the inmate?  
 15 A. I would look at those, yes.  
 16 Q. Okay. And how would you know whether they  
 17 were complete or not?  
 18 A. That -- I wouldn't. I would have to  
 19 request formal records from the prior provider.  
 20 Q. Okay. So an inmate could provide you with  
 21 a stack of records and am I hearing you say that,  
 22 despite that, you would need to request all the  
 23 records you could get from other providers?  
 24 A. I would require prior notes and

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1 recommendations coming through the proper channels.  
 2 Q. And what are the proper channels?  
 3 A. That would be going through medical  
 4 records, putting in a request for a release of  
 5 information from prior providers for information being  
 6 sought.  
 7 Q. Who's supposed to put in that request?  
 8 A. That -- I put in the order, as I did here,  
 9 and that goes to medical records through the DOC, and  
 10 the DOC medical records are tasked to obtain those  
 11 records.  
 12 Q. How does that request go to -- strike  
 13 that.  
 14 When you say medical records, is that a  
 15 department you're referring to?  
 16 A. Yes, it is.  
 17 Q. Okay. How does this request go to medical  
 18 records?  
 19 A. I cannot really tell you based on what the  
 20 nurses do, but I -- they take that task off, as this  
 21 nurse did, Elizabeth Holden, and then they should be  
 22 informing medical records of the request. The  
 23 procedure after that is -- is beyond me.  
 24 Q. Do you know whether or not a form or

4 (Pages 13 to 16)

Page 17

1 paperwork is generated when a nurse informs medical  
 2 records of the request you're making?  
 3 A. At that time, no, I do not know of any  
 4 specific form that is generated.  
 5 Q. Okay.  
 6 A. The process is different now that we're a  
 7 full electronic medical record.  
 8 Q. What do you mean when you say the process  
 9 is different now?  
 10 A. I believe it goes through Sapphire, and so  
 11 there is a form for request of information.  
 12 Q. And Sapphire is an electronic system?  
 13 A. Correct.  
 14 Q. Okay. And in January of 2017, did you  
 15 have Sapphire?  
 16 A. We had Sapphire, but it was only a partial  
 17 system at that time and it did not have that  
 18 capabilities; hence, why we had paper charts.  
 19 Q. Okay. We don't need to go through all of  
 20 these. Let's go to what we'll mark as Exhibit 4,  
 21 which is the radiology report.  
 22 \* \* \*  
 23 (Whereupon, Exhibit Rodgers-4 was marked  
 24 for identification.)

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1 THE WITNESS: Yeah, I don't understand the  
 2 question either.  
 3 BY MR. MOSSER:  
 4 Q. Let's say you had gotten all the complete  
 5 records from the proper channels.  
 6 A. Uh-huh.  
 7 Q. And you had gotten this document. Would  
 8 this document have caused you to do anything?  
 9 A. I'm still not completely clear on the  
 10 question.  
 11 Q. Assuming this document came through the  
 12 proper channels, would this have affected your  
 13 treatment of Mr. Cowher?  
 14 A. This would be the type of information -- a  
 15 part of the type of information that we require to  
 16 move forward with counsel.  
 17 Q. Okay. What other information would you  
 18 have needed?  
 19 A. The specialist outpatient services that  
 20 were provided, such as the office's exams from  
 21 neurology -- or neurosurgery, I should say.  
 22 Q. And again, a consult that you would have  
 23 asked for is a consult for an MRI?  
 24 A. Not with this. This is an MRI that we

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1 \* \* \*  
 2 BY MR. MOSSER:  
 3 Q. Dr. Rodgers, I showed you what I've marked  
 4 as Exhibit 4. This is titled Open MRI of  
 5 Williamsport. Do you see where it says that?  
 6 A. Yes, I do.  
 7 Q. Okay. Do you recall whether this is a  
 8 document that you saw or whether Mr. Cowher gave you  
 9 this document?  
 10 A. I cannot specifically say this is the  
 11 document that I reviewed that day.  
 12 Q. Okay. Having reviewed this document --  
 13 well, why don't you take a moment and review where it  
 14 says findings.  
 15 A. Okay.  
 16 Q. Having reviewed those findings, as you sit  
 17 here today, do you think those findings warrant an  
 18 MRI?  
 19 MS. GOODRICH: Objection to form. He's  
 20 not a radiologist or a neurosurgeon, and I'm not  
 21 quite sure what -- you're asking if the findings  
 22 of the MRI report -- another MRI?  
 23 MR. MOSSER: Yeah.  
 24 MS. GOODRICH: I'm not quite sure.

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1 would likely obtain for any type of surgery that would  
 2 be considered. It would really be the specialist, the  
 3 neurosurgeon that would -- we would need their  
 4 recommendations prior to initiating any further  
 5 consult for surgery.  
 6 Q. And the neurosurgeon you're speaking of is  
 7 an outside provider?  
 8 A. Correct.  
 9 Q. Okay. So if you had a recommendation from  
 10 an outside neurosurgeon that said Mr. Cowher needed  
 11 surgery, what would have happened next?  
 12 A. We would either schedule a -- either  
 13 schedule a follow-up with that neurosurgeon for a  
 14 repeat evaluation or we would schedule surgery.  
 15 Q. Okay. Did you know that Mr. Cowher had  
 16 been scheduled for surgery before he got to SCI  
 17 Mahanoy?  
 18 A. Based on that note February 8th, it does  
 19 say that he told me that he was scheduled at county --  
 20 in the county system. I'm sorry. He did tell me that  
 21 he was seen by neurosurgery in the county system twice  
 22 with recommendations for surgery, but I do not note  
 23 that I knew of a date that he was scheduled for  
 24 surgery.

5 (Pages 17 to 20)

Page 21

1 Q. Okay. And based on what Mr. Cowher told  
2 you, am I understanding you to say that that wasn't  
3 good enough to make sure he got surgery?  
4 MS. GOODRICH: I'm sorry. Objection to  
5 form. Are you saying what Mr. Cowher told him is  
6 not good enough?  
7 MR. MOSSER: Yeah.  
8 MS. GOODRICH: Just his verbal assurances?  
9 MR. MOSSER: Yeah.  
10 THE WITNESS: I'm not a neurosurgeon, so I  
11 can't tell you what is or is not good enough for  
12 surgery. That is what the surgeon is for.  
13 BY MR. MOSSER:  
14 Q. Okay. And why didn't you, having had  
15 that, or having written that, why didn't you suggest a  
16 consult for an MRI?  
17 A. Because he had already had an MRI  
18 completed.  
19 Q. Having had an MRI completed, why didn't  
20 you suggest a consult for surgery?  
21 A. Because he had already been consulted by  
22 neurosurgery per his report.  
23 Q. Okay. So what did Mr. Cowher have to do  
24 to get a surgery then?

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1 A. What we needed, as an entity at CCS, was  
2 the record from prior evaluation and recommendation  
3 from neurosurgery.  
4 Q. Okay.  
5 A. And we did not obtain those.  
6 Q. Okay. If you had a record -- if you had a  
7 record that showed that he was scheduled for surgery,  
8 what would -- what would Correct Care Solutions have  
9 done?  
10 MS. GOODRICH: Objection to form. What do  
11 you mean by record?  
12 BY MR. MOSSER:  
13 Q. If you had a piece of paper that said  
14 Myron Cowher is scheduled for surgery on January 15th,  
15 and Myron Cowher had come to see you before January  
16 15th, what would you have done? Would you have tried  
17 to make sure he got the surgery?  
18 A. Are you asking a question if he had come  
19 from a different system with surgery scheduled?  
20 Q. Yes.  
21 A. Coming into the CCS systems, since CCS  
22 does take on that cost, we have to go through the  
23 whole process again of reassuring that medical  
24 evaluation was completed and get proper

Page 23

1 recommendations.  
2 After that process is completed, then we  
3 could get them scheduled for surgery through the same  
4 neurosurgeon ideally.  
5 Q. Do you know why or can you tell me why you  
6 have to go through that whole process again?  
7 A. I do not.  
8 Q. Okay. Just give me a minute. I think  
9 we're almost done, actually.  
10 \* \* \*  
11 (Pause)  
12 \* \* \*  
13 Q. Do you know how I could find out whether  
14 the nurse -- the nurses involved here communicated  
15 your request for records?  
16 A. I do not.  
17 Q. Okay.  
18 A. However, the signature and the stamp is  
19 acknowledgment of that order. So the assumption would  
20 be that the nurse would carry out that task.  
21 Q. That's an assumption, right?  
22 A. Yes. I don't follow up on all orders.  
23 Q. Okay. So I just want to make sure I  
24 understand correctly, and correct me if I'm wrong.

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1 I'm going try to summarize what I'm learning here  
2 today.  
3 The reason why Myron Cowher didn't get  
4 surgery while he was at Mahanoy is because you and  
5 other medical staff didn't have all the records you  
6 needed. Is that right?  
7 A. I would say that's a fair assumption, or a  
8 fair assessment.  
9 MR. MOSSER: Okay. That's all I have.  
10 MR. NINOSKY: No questions.  
11 MS. GOODRICH: I actually have a few  
12 follow-up questions for you.  
13 \* \* \*  
14 EXAMINATION  
15 \* \* \*  
16 BY MS. GOODRICH:  
17 Q. We were talking about the medical records  
18 and the process of obtaining medical records. The  
19 individuals who work in the medical records  
20 department, are they employed by CCS?  
21 A. No, they are not. They're Department of  
22 Corrections.  
23 Q. Does anybody at CCS supervise those  
24 individuals in the medical records department?

6 (Pages 21 to 24)

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- 1 A. No.
- 2 Q. And these nurses, Alice Dudeck and
- 3 Elizabeth Holden, who -- and any other nurses who take
- 4 off the orders and send them to medical records, are
- 5 they employed by CCS?
- 6 A. No.
- 7 Q. Who are they supervised by?
- 8 A. Nursing supervisors here, but overall
- 9 they're Department of Corrections as well.
- 10 Q. Does anybody at CCS supervise the nurses?
- 11 A. No.
- 12 Q. And with regard to medical records, my
- 13 understanding, as you testified today, that you can
- 14 write an order to obtain medical records, correct?
- 15 A. Correct.
- 16 Q. Okay. And let's say you learned, as we do
- 17 here, that a month later the records still aren't
- 18 obtained and it seems that you wrote another request
- 19 for medical records, correct?
- 20 A. Yes.
- 21 Q. What can you do, if you still don't
- 22 receive the records? What can you do to ensure that
- 23 medical records are obtained?
- 24 A. I informally will walk down to the

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- 1 previously scheduled surgery and that was scheduled
- 2 while at county. So it was not approved by CCS, it
- 3 was approved by an outside provider, comes into
- 4 county.
- 5 In that situation, how do we go about --
- 6 what's the process for ensuring that he can go forward
- 7 with that surgery if it's deemed medically necessary?
- 8 A. If we -- like I said, if we obtain all
- 9 those medical records from outside evaluation, the
- 10 workup, and they're deemed medically necessary, then
- 11 we can move forward with the surgery -- with consult
- 12 for surgery.
- 13 Q. When you say all of those records, is --
- 14 you know, you were looking at a couple of MRI's. Are
- 15 these MRI's enough for you to be able to write that
- 16 consult?
- 17 A. No.
- 18 Q. Is a note from Prime Care saying he's
- 19 scheduled to have surgery enough?
- 20 A. No.
- 21 Q. You would actually need the actual
- 22 progress note from the outside provider, correct?
- 23 A. Correct.
- 24 Q. What's the reason why you need to have

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- 1 department and ask for them to try to get those
- 2 records.
- 3 Q. Is there anything you can do to intervene
- 4 in the process at all?
- 5 A. No.
- 6 Q. And what I say, take over the process to
- 7 obtain medical records?
- 8 Is that a no?
- 9 A. No.
- 10 Q. Is there anybody at CCS that can take over
- 11 the role of medical records department?
- 12 A. No.
- 13 Q. So you have to rely upon the DOC to get
- 14 those records, correct?
- 15 A. Yes.
- 16 Q. Do you recall specifically whether you
- 17 went to the medical records department to ask why
- 18 records were not yet received?
- 19 A. I do not.
- 20 Q. And we're going over a little bit about
- 21 the consult process. I do want to go over that a bit
- 22 more.
- 23 So in this case, as you've learned, we
- 24 have a patient who comes into Mahanoy who has a

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- 1 that documentation prior to writing the consult?
- 2 A. So we can determine whether it's medically
- 3 necessary for the surgery as opposed to elective.
- 4 Q. And I know you only -- you only wrote two
- 5 notes in the record, but in either one of your notes
- 6 was there any indication that you saw in either note
- 7 that Mr. Cowher was in an abundance of pain?
- 8 A. No. My NAD is nomenclature for no acute
- 9 distress, which would entail pain or respiratory
- 10 distress. Any type of distress.
- 11 Q. If he was -- say if he was grimacing,
- 12 would that be something that you would document?
- 13 A. Correct.
- 14 Q. Okay. If he was holding his back and
- 15 stumbling in, would that be something you document?
- 16 A. Yes, it would.
- 17 Q. If he came in in a wheelchair because he
- 18 couldn't walk, would that be something you'd document?
- 19 A. Yes, it would be.
- 20 Q. Are you aware of the grievance process in
- 21 the Department of Corrections?
- 22 A. Yes, I am.
- 23 Q. If an inmate came to you and asked for a
- 24 grievance form, is that something you'd be able to

7 (Pages 25 to 28)

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1 provide to him?  
 2 A. Not myself specifically, but I could ask  
 3 nursing or nursing supervisors to provide such a  
 4 grievance form.  
 5 Q. Do you recall Mr. Cowher ever asking you  
 6 for a grievance form?  
 7 A. No.  
 8 Q. If he had asked you, what would you have  
 9 done?  
 10 A. I would have requested one of the nurses  
 11 provide such form or one of the nursing supervisors.  
 12 MS. GOODRICH: Those are all the questions  
 13 I have.  
 14 \* \* \*  
 15 EXAMINATION  
 16 \* \* \*  
 17 BY MR. MOSSER:  
 18 Q. Do you remember whether you informally  
 19 walked to medical records to ask that they get the  
 20 records?  
 21 A. I do not.  
 22 Q. You don't remember or you didn't do it?  
 23 A. I do not remember. It would be --  
 24 normally be my practice, though.

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1 Q. Okay.  
 2 A. On a second time. I wouldn't do it the  
 3 first time. The second time, if they had not arrived,  
 4 I would typically go up and say, please obtain these  
 5 records.  
 6 Q. Okay.  
 7 MR. MOSSER: Okay. That's all I have.  
 8 MR. NINOSKY: Nothing.  
 9 MS. GOODRICH: Thank you, Doctor. Let me  
 10 walk you out.  
 11 \* \* \*  
 12 (Witness excused.)  
 13 \* \* \*  
 14 (Whereupon, the deposition was concluded  
 15 at 10:52 a.m.)  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24

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## CERTIFICATE

1  
 2  
 3 I, Nancy J. Taguinot, RPR, CCR(NJ),  
 4 Registered Professional Reporter and Notary Public in  
 5 and for the Commonwealth of Pennsylvania, certify that  
 6 the foregoing is a true and accurate transcript of the  
 7 deposition of said witness, who was first duly sworn  
 8 by me on the date and place hereinbefore set forth.  
 9

10 I further certify that I am neither attorney  
 11 nor counsel for, nor related to or employed by, any of  
 12 the parties to the action in which this deposition was  
 13 taken, and further, that I am not a relative or  
 14 employee of any attorney or counsel employed in this  
 15 action, nor am I financially interested in this case.  
 16  
 17  
 18  
 19

20 Nancy J. Taguinot, RPR, CCR(NJ)  
 Notary Public  
 New Jersey License No. XI01005  
 21  
 22  
 23  
 24

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## INSTRUCTIONS TO THE WITNESS

1 Read your deposition over carefully  
 2  
 3 It is your right to read your deposition and make  
 4 changes in form or substance. You should assign a  
 5 reason in the appropriate column on the errata  
 6 sheet for any change made.

7 After making any changes in form or  
 8 substance which have been noted on the following  
 9 errata sheet along with the reason for any change,  
 10 sign your name on the errata sheet and date it.

11 Then sign your deposition at the  
 12 end of your testimony in the space provided. You  
 13 are signing it subject to the changes you have  
 14 made in the errata sheet, which will be attached  
 15 to the deposition before filing. You must sign it  
 16 in front of a witness. Have the witness sign in  
 17 the space provided. The witness need not be a  
 18 notary public. Any competent adult may witness  
 19 your signature.

20 Return the original errata sheet to  
 21 your counsel promptly. Court rules require filing  
 22 within thirty days after you receive the  
 23 deposition.  
 24

8 (Pages 29 to 32)

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ERRATA SHEET			
Attach to Deposition of: Courtney Patrick Rodgers, D.O.			
Taken on: January 25, 2019			
In the matter of: Lowe, et al.			
PAGE	LINE NO.	CHANGE	REASON
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SIGNATURE PAGE	
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2	
3	---
4	
5	I hereby acknowledge that I have
6	read the foregoing transcript, dated January 25,
7	2019, and the same is a true and correct
8	transcription of the answers given by me to the
9	questions propounded, except for the changes, if
10	any, noted on the Errata Sheet.
11	
12	---
13	
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16	
17	SIGNATURE: _____
	Courtney Patrick Rodgers, D.O.
18	
19	DATE: _____
20	
21	WITNESSED BY: _____
22	
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9 (Pages 33 to 34)

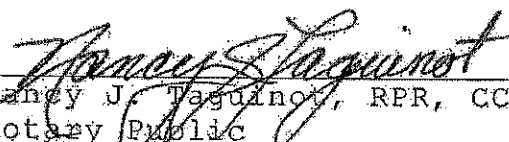


## COURTNEY PATRICK RODGERS, D.O.

## C E R T I F I C A T E

I, Nancy J. Taguinot, RPR, CCR(NJ),  
Registered Professional Reporter and Notary Public in  
and for the Commonwealth of Pennsylvania, certify that  
the foregoing is a true and accurate transcript of the  
deposition of said witness, who was first duly sworn  
by me on the date and place hereinbefore set forth.

I further certify that I am neither attorney  
nor counsel for, nor related to or employed by, any of  
the parties to the action in which this deposition was  
taken, and further, that I am not a relative or  
employee of any attorney or counsel employed in this  
action, nor am I financially interested in this case.

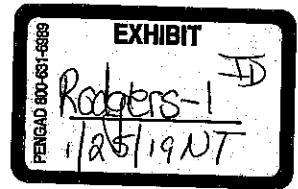
  
Nancy J. Taguinot, RPR, CCR(NJ)  
Notary Public  
New Jersey License No. XI01005

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## **Courtney Patrick Rodgers**

### **EDUCATION:**

**Lake Erie College of Osteopathic Medicine**  
*Doctor of Osteopathy*  
Problem Based Learning curriculum

**Bradenton, FL**  
June 2011

**University of Kansas**  
*Bachelor of Science in Human Biology*  
Overall GPA 3.5  
Science GPA 3.8

**Lawrence, KS**  
May 2004

### **INTERNSHIP AND RESIDENCY:**

**Grandview Hospital**  
*Emergency Medicine Residency*

**Dayton, OH**  
June 2012-  
February 2014

317 bed urban hospital with a 22 bed emergency department. Rotations completed while in residency included six rotations in the ED, two Trauma/SICU rotations at Level 1 Trauma center Grant Medical Center in Columbus Ohio, two pediatric EM rotations at Dayton Children's Hospital and one Ultrasound rotation

**St. Lukes Osteopathic Hospital**  
*Traditional Rotating Internship*

**Allentown, PA**  
June 2012

### **WORK EXPERIENCE:**

**Correct Care Solutions**  
*Site Medical Director – SCI Mahanoy*

**Frackville, PA**  
July 2016-present

2500 male population state prison. Clinical duties include chronic care clinic, sick call, 12 bed infirmary, infectious disease clinic. Various telemedicine clinics including oncology, dermatology, nephrology and orthopedics. Administrative duties include managing other onsite practitioners including a part time physician and 2 full time mid-levels.

**Amcare Inc., Doctor's Urgent Care**  
*Physician – Full time*

**Dayton, OH**  
January 2015-June  
2016

Nine facility company servicing the Cincinnati and Dayton areas. General low acuity illnesses and injuries. Physical examinations including pre-employment, sports and DOT. Occupational services including worker compensation claims. Average patient load approximately 4 patients per hour.

**ACTIVE STATE LICENSES:**

**Ohio Unrestricted Medical License, 34.011652** since Jan 2015

**Pennsylvania Unrestricted Medical License, OS018095** since March 2016

**PROFESSIONAL MEMBERSHIPS**

**American Osteopathic Association**, member since 2011

**Emergency Medicine Resident's Association**, member since 2012

**COMMUNITY**

**ACTIVITY:** **FIMRC mission trip to Trujillo, Peru,**  
**June-July 2008**

- Observing medical settings/conditions of Trujillo
- Setting up medical clinics in underserved areas
- Medical screening in underserved areas

**Florida Sheriff's Youth Ranch Mentoring program**  
**Bradenton, FL**

**Aug 2007 to March 2009**

- Participating in activities such as sports and serving as a role model to troubled boys

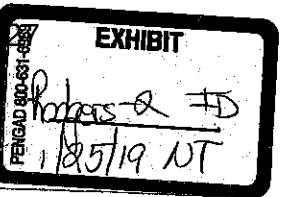
**STRENGTHS/**

**SKILLS:**

- Leadership skills, teamwork oriented, organized, resourceful, work well in diverse environments, strong written/verbal communication, and able to take on an array of responsibilities.
- Excellent troubleshooting and analytical skills.
- Excellent patient management skills, could routinely average 1.5-2 complicated ED patients an hour.
- Proficient with ultrasound
- DOT certified
- Extensive experience with Workers Compensation

Inmate Name:

Inmate Number:



Date/ re	Discipline Abbreviation	Remarks Subjective, Objective, Assessment, Plan
2/8/17	mo	S: Reviewed prior paperwork & pt. Significant cervical
1020	line	issues including herniated disks. Pt states intermittent
		pain shoots down @ arm/back. States prior to incarceration
		and while in county system was seen by neurosurgeon
		twice & rec for surgery on C-spine. Discussed with obtain
		those rec and follow accordingly. Educated on current
		meds and need to give Pamelor up to 6 weeks
		for full effect.
		O: W/c hand NAD NAD003
		A: Cervical DJD & herniations
		P: obtain records
		mo line in 4 weeks
2/17/19	Nig	Show for SC ——— Mitchell
		Courtney Rodgers, DO Crystal Schell, LPN
2/21/17	PAC	S: I/m to S/c to rep to see someone for
1115		a tingling sensation (L) back area.
		Denies pain, itching or rash.
		Denies having varicella as a child but
		States he had the immunizations.
		O: NAD. A: Qx3. Hart reviewed
		Back has no rash, blisters or edema.
		Clo pain in (L) mid Back. Already
		on Pamelor which I/m states is starting
		to help. Keep eye on area & if it
		worsens in any way, PAC.
		A: Pain - Chronic
		P: See above I/m aware of above & has
		flu & MD in 2-3 wks. QIC + sx, prn

Nancy Palmigiano, PA-C

N. Palmigiano



## PHYSICIAN'S ORDER FORM

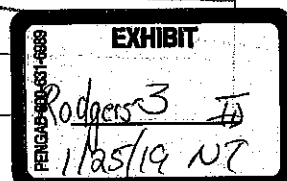
NKDA

Drug Allergies:

Cowher, Myron  
MT 1479  
02/19/63  
SCI - Mahanoy

Date/ Military Time	DO NOT USE THIS SHEET UNLESS A RED NUMBER SHOWS
01/31/17 0845	Sch for MD line re: Pain mgmt - MRI of Spine Nancy Palmigiano, PA-C NOTED ADudeck 2/1/17 @ 0900 Alice Dudeck, LPN 2/1/17 1330 Courtney Rodgers, DO
2/8/17 0830	Please obtain visit notes and recommendations from previously seen neurosurgeon Rodwan Briggance M.D. - Lycoming Neurosurgical Assoc. Ph# 570-326-2035 Fax: 570-326-9220 Courtney Rodgers, DO
	MD line in 3-4 weeks re: Pain, neuro sx Elizabeth Holden, LPN
3/1/17 1015	PLEASE OBTAIN ABOVE RECORDS AS REQUESTED Courtney Rodgers, DO
	3/1/17 1227 @ Kaiser
	CHRISTINA HAUSER, RN

PLEASE USE BALL POINT PEN ONLY



05/13/2016 10:52 5703228055

OPEN MRI OF WMSPT

PAGE 01/02



Upstate Radiology, PC  
OPEN MRI OF WILLIAMSPORT

Patient's Name: Cowher II, Myron  
Patient Account#: 183000  
Date of Service: 05/12/2016 (Williamsport)  
Date of Birth: 02/19/1963  
Referring Physician: Terry Belles MD  
Exam: MRI of the Cervical Spine  
Claim #: 75058-91716  
DOI: 04/16/16

Comparison: MRI of right brachia plexus May 4, 2016.

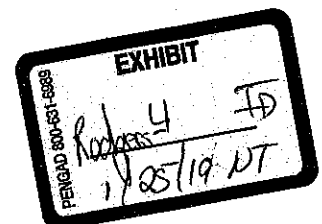
Clinical history: Neck pain and right upper extremity radiculopathy.

Findings: There is no fracture, destructive osseous lesion, or dislocation seen. Moderate cervical spine spondylosis is seen. There is straightening of cervical spine lordosis that is consistent with muscle spasm. At C4-C5, central and left paracentral disc herniation is seen with transverse diameter of 1.3 cm, maximal AP diameter of 0.5 cm, and sagittal height of 1.1 cm that is markedly distorting the ventral contour of the spinal cord left of the midline. There is severe left lateral recess narrowing, moderate central canal stenosis, and mild right lateral recess narrowing at C4-C5. At C6-C7, there is a large right paracentral disc herniation with transverse diameter of 1.0 cm, AP diameter of 0.5 cm, and sagittal height of 0.9 cm severely narrowing the right lateral recess and the medial most aspect of right neural foramen. There is also mild distortion of the right ventral aspect of the spinal cord at C6-C7. No other disc herniation is seen; however, posterior lateral osteophytes are present at C5-C6 with moderate bilateral lateral recess narrowings. Intrinsic pathology of spinal cord is not identified.

CONTINUED ON PAGE TWO

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OPEN MRI OF WMSPT

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Upstate Radiology, PC  
OPEN MRI OF WILLIAMSPORT

Patient's Name: Cowher II, Myron -2-  
Date of Service: 05/12/2016 (Williamsport)  
Exam: MRI of the Cervical Spine

Impression:

1. Moderate cervical spine spondylosis.
2. Right paracentral disc herniation at C6-C7 with severe right lateral recess narrowing and mild distortion of spinal cord contour.
3. Prominent central/left paracentral disc herniation at C4-C5 with marked spinal cord distortion, moderate central canal stenosis, severe left lateral recess narrowing, and mild right lateral recess narrowing.
4. Moderate bilateral lateral recess narrowings at C5-C6 due to posterolateral osteophytes.
5. Reversal of normal cervical spine lordosis possibly secondary to muscle spasm.

Dictated by: Kirwin Gibbs, MD on 05/12/2016 at 13:00:51  
Electronically Approved by: Kirwin Gibbs, MD  
Signed on: 05/12/2016 14:03:56

Job Number: 662545

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